

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

KEN TANOURY,

Plaintiff,

v.

SYMPHONY SERVICE CORP.,

Defendant.

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Civil Action No. **3:12-CV-1142-L**

ORDER

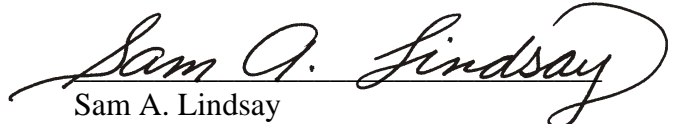
Before the court is Defendant Symphony Service Corp.’s Motion to Dismiss and Compel Arbitration, filed April 30, 2012. The court referred the motion to the Honorable Magistrate Judge Irma Carrillo Ramirez on May 22, 2012. She issued her Findings, Conclusions and Recommendation (“Report”) on February 5, 2013. Judge Ramirez concluded that Plaintiff Ken Tanoury (“Tanoury”) should be compelled to submit his claims to arbitration. The court agrees and accepts the magistrate judge’s findings and conclusions as those of the court. Neither party filed objections to the Report.

With respect to whether the suit should be stayed or dismissed pending arbitration, the magistrate judge concluded that all of Plaintiff’s claims are arbitrable and recommended that this action be dismissed without prejudice. While the court agrees that all claims are arbitrable, it believes that this action should be dismissed with prejudice rather than without prejudice as recommended by the magistrate judge. When a court determines that all claims of a lawsuit are subject to arbitration, dismissal of the action with prejudice is appropriate and within the court’s discretion. *Alford v. Dean Witter Reynolds, Inc.*, 975 F.2d 1161, 1164 (5th Cir. 1992) (citations omitted). The reason for dismissal with prejudice is that retaining jurisdiction of the action by

the district court serves no purpose because any remedies after arbitration are limited to judicial review as set forth in the Federal Arbitration Act. *Id.* (citation omitted).

For the reasons herein stated, the court **grants** Defendant's Motion to Dismiss and Compel Arbitration and **dismisses** this action **with prejudice**. The parties **shall arbitrate** all of Plaintiff's claims pursuant to and in accordance with the 2011 Incentive Compensation Plan, which Plaintiff acknowledged receipt of by e-mail on April 13, 2011.

It is so ordered this 27th day of February, 2013.


Sam A. Lindsay
United States District Judge